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6 *Attorneys for the United States*

7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 ROBERT BARBER,

13 Defendant.

14 Case No. 2:20-mj-00895-VCF

15 ORDER to Continue the Preliminary  
16 Hearing (Second Request)

17 It is hereby stipulated and agreed, by and between Nicholas A. Trutanich, United  
18 States Attorney, through Jim W. Fang, Assistant United States Attorney, and Damian R.  
19 Sheets, Esq., counsel for Defendant Robert Barber, that the preliminary hearing in the  
20 above-captioned matter for Barber, previously scheduled for January 28, 2021, at 4:00 p.m.,  
be vacated and continued until a time convenient to the Court, but no earlier than 60 days  
from the current setting.

21 1. Federal Rule of Criminal Procedure Rule 5.1(d) provides that “[w]ith the  
22 defendant’s consent and upon a showing of good cause—taking into account the public  
23 interest in the prompt disposition of criminal cases—a magistrate judge may extend the time  
24 limits [for preliminary hearings] one or more times.” Here, the parties desire to explore the

1 potential to resolve this matter before defendant is formally charged by a criminal  
2 indictment.

3       2. In that regard, the government intends to provide defense counsel with Rule  
4 16 discovery in order to facilitate pre-indictment resolution. Defense counsel will need  
5 additional time to review the discovery and discuss the case with his client prior to a  
6 preliminary hearing or indictment.

7       3. This continuance is not sought for the purposes of delay, but to allow defense  
8 counsel an opportunity to examine the merits of this case before a potential resolution can  
9 be reached between the parties.

10      4. Defendant is not in custody and agrees to the continuance.

11      5. Denial of this request could result in a miscarriage of justice, and the ends of  
12 justice served by granting this request outweigh the best interest of the public and the  
13 defendants in a speedy trial.

14      6. The additional time requested by this stipulation is excludable in computing  
15 the time within which indictment must be filed pursuant to the Speedy Trial Act, 18 U.S.C.  
16 § 3161(b), and considering the factors under 18 U.S.C. § 3161(h)(7)(A) and (B)(i) and (iv).

17           DATED this 14th day of January, 2021.

18           NICHOLAS A. TRUTANICH  
19           United States Attorney

20           s/Jim W. Fang  
21           JIM W. FANG  
22           Assistant United States Attorney  
23           *Counsel for the United States*

24           s/ Damian R. Sheets  
25           Damian R. Sheets, ESQ.  
26           *Counsel for Defendant Barber*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

V.

Case No. 2:20-mj-00895-VCF

ROBERT BARBER,

Defendant.

## **FINDINGS AND ORDER**

Based on the pending Stipulation between the defense and the government, and good appearing therefore, the Court hereby finds that:

1. The parties desire to continue the preliminary hearing to facilitate pre-indictment resolution, and the government intends to provide defense counsel with Rule 16 discovery for that purpose. Defense counsel will need additional time to review the discovery and discuss the case with his client prior to a preliminary hearing or indictment. The Court finds good cause to continue the hearing to allow the parties to reach a pre-indictment resolution.

2. Both counsel for defendant and counsel for the government agree to the continuance.

3. Defendant is not in custody and agrees to the continuance.

4. The continuance is not sought for the purposes of delay, but to allow defense counsel an opportunity to examine the merits of this case before a potential resolution can be reached between the parties.

1       5. Denial of this request could result in a miscarriage of justice, and the ends of  
2 justice served by granting this request outweigh the best interest of the public and the  
3 defendants in a speedy trial.

4       6. The additional time requested by this stipulation is excludable in computing  
5 the time within which indictment must be filed pursuant to the Speedy Trial Act, 18 U.S.C.  
6 § 3161(b), and considering the factors under 18 U.S.C. § 3161(h)(7)(A) and (B)(i) and (iv).

7       THEREFORE, IT IS HEREBY ORDERED that the preliminary hearing in the  
8 above-captioned matter currently scheduled for January 28, 2021, at 4:00 p.m. be vacated  
9 and continued to March 29, 2021 at 4:00 PM in LV Courtroom 3D before Magistrate Judge Ferenbach

10      DATED this 14 day of January, 2021.



11  
12      HONORABLE CAM FERENBACH  
13      UNITED STATES MAGISTRATE JUDGE  
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